

SECOND REGULAR SESSION

# HOUSE BILL NO. 1760

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MAYER, RICHARDSON, BARTLE, HOSMER, BRITT,  
HUNTER AND MERIDETH (Co-sponsors).

Read 1<sup>st</sup> time January 31, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3859L.01I

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### AN ACT

To repeal sections 150.465, 570.010, 570.030, 570.080, 570.090, 570.120, and 570.123, RSMo,  
and to enact in lieu thereof seven new sections relating to stealing, with penalty  
provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 150.465, 570.010, 570.030, 570.080, 570.090, 570.120, and  
2 570.123, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as  
3 sections 150.465, 570.010, 570.030, 570.080, 570.090, 570.120, and 570.123, to read as follows:

150.465. 1. No itinerant vendor as defined in section 150.380, and no peddler as defined  
2 in section 150.470, shall offer for sale:

3 (1) Any food solely manufactured and packaged for sale for consumption by a child  
4 under the age of two years; or

5 (2) Drugs, devices and cosmetics as defined in section 196.010, RSMo.

6 2. This section shall not apply to authorized agents of a manufacturer of any item  
7 enumerated in subsection 1 of this section.

8 3. Violation of this section is a class A misdemeanor.

9 **4. Itinerant vendors and peddlers shall make available within seventy-two hours**  
10 **upon request of any law enforcement officer any proof of purchase from a producer,**  
11 **manufacturer, wholesaler, or retailer of any new or unused property, as defined in section**  
12 **570.010, RSMo.**

13 **5. Any forged receipt produced pursuant to subsection 4 of this section shall be**  
14 **prosecuted pursuant to section 570.090, RSMo.**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended  
to be omitted in the law.

570.010. As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) "Credit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) "Dealer" means a person in the business of buying and selling goods;

(6) "Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(7) "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(8) "Deprive" means:

(a) To withhold property from the owner permanently; or

37 (b) To restore property only upon payment of reward or other compensation; or

38 (c) To use or dispose of property in a manner that makes recovery of the property by the  
39 owner unlikely;

40 (9) "Mislabeled" means varying from the standard of truth or disclosure in labeling  
41 prescribed by statute or lawfully promulgated administrative regulations of this state lawfully  
42 filed, or if none, as set by commercial usage; or represented as being another person's product,  
43 though otherwise accurately labeled as to quality and quantity;

44 (10) **"New and unused property" means tangible personal property that has never**  
45 **been used since its production or manufacture and is in its original unopened package or**  
46 **container if such property was packaged;**

47 (11) "Of another" property or services is that "of another" if any natural person,  
48 corporation, partnership, association, governmental subdivision or instrumentality, other than  
49 the actor, has a possessory or proprietary interest therein, except that property shall not be  
50 deemed property of another who has only a security interest therein, even if legal title is in the  
51 creditor pursuant to a conditional sales contract or other security arrangement;

52 [(11)] (12) "Property" means anything of value, whether real or personal, tangible or  
53 intangible, in possession or in action, and shall include but not be limited to the evidence of a  
54 debt actually executed but not delivered or issued as a valid instrument;

55 [(12)] (13) "Receiving" means acquiring possession, control or title or lending on the  
56 security of the property;

57 [(13)] (14) "Services" includes transportation, telephone, electricity, gas, water, or other  
58 public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and  
59 use of vehicles;

60 [(14)] (15) "Writing" includes printing, any other method of recording information,  
61 money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and  
62 any other symbols of value, right, privilege or identification.

570.030. 1. A person commits the crime of stealing if he or she appropriates property  
2 or services of another with the purpose to deprive him or her thereof, either without his or her  
3 consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution under this section  
5 on the issue of the requisite knowledge or belief of the alleged stealer:

6 (1) That he or she failed or refused to pay for property or services of a hotel, restaurant,  
7 inn or boardinghouse;

8 (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or  
9 boardinghouse a check or negotiable paper on which payment was refused;

10 (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not

11 pay for property or services;

12 (4) That he or she surreptitiously removed or attempted to remove his or her baggage  
13 from a hotel, inn or boardinghouse;

14 (5) **That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters,**  
15 **transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or**  
16 **universal price code label, or possesses with intent to cheat or defraud, the device that**  
17 **manufactures fraudulent receipts or universal price code labels.**

18 **3. Stealing is a class D felony if the value of the property or services is at least one**  
19 **hundred fifty dollars but less than four hundred twenty-five dollars.**

20 [3.] **4. Stealing is a class C felony if:**

21 (1) The value of the property or services appropriated is [seven] **four** hundred [fifty]  
22 **twenty-five** dollars or more; or

23 (2) The actor physically takes the property appropriated from the person of the victim;  
24 or

25 (3) The property appropriated consists of:

26 (a) Any motor vehicle, watercraft or aircraft; or

27 (b) Any will or unrecorded deed affecting real property; or

28 (c) Any credit card or letter of credit; or

29 (d) Any firearms; or

30 (e) A United States national flag designed, intended and used for display on buildings  
31 or stationary flagstaffs in the open; or

32 (f) Any original copy of an act, bill or resolution, introduced or acted upon by the  
33 legislature of the state of Missouri; or

34 (g) Any pleading, notice, judgment or any other record or entry of any court of this state,  
35 any other state or of the United States; or

36 (h) Any book of registration or list of voters required by chapter 115, RSMo; or

37 (i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

38 (j) Live fish raised for commercial sale with a value of seventy-five dollars; or

39 (k) Any controlled substance as defined by section 195.010, RSMo.

40 [4.] **5. If an actor appropriates any material with a value less than one hundred fifty**  
41 **dollars in violation of this section with the intent to use such material to manufacture, compound,**  
42 **produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues,**  
43 **then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid**  
44 **nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class**  
45 **C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank**  
46 **trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.**

47           [5.] **6.** The theft of any item of property or services [under] **pursuant to** subsection 3 of  
48 this section which exceeds [seven] **one** hundred fifty dollars may be considered a separate felony  
49 and may be charged in separate counts.

50           [6.] **7.** Any person with a prior conviction of paragraph (i) of subdivision (3) of  
51 subsection [3] **4** of this section and who violates the provisions of paragraph (i) of subdivision  
52 (3) of subsection [3] **4** of this section when the value of the animal or animals stolen exceeds  
53 three thousand dollars is guilty of a class B felony.

54           [7.] **8.** Any violation of this section for which no other penalty is specified in this section  
55 is a class A misdemeanor.

          570.080. 1. A person commits the crime of receiving stolen property if for the purpose  
2 of depriving the owner of a lawful interest therein, [he] **the person** receives, retains or disposes  
3 of property of another knowing that it has been stolen, or believing that it has been stolen.

4           2. Evidence of the following is admissible in any criminal prosecution [under] **pursuant**  
5 **to** this section to prove the requisite knowledge or belief of the alleged receiver:

6           (1) That [he] **the person** was found in possession or control of other property stolen on  
7 separate occasions from two or more persons;

8           (2) That [he] **the person** received other stolen property in another transaction within the  
9 year preceding the transaction charged;

10          (3) That [he] **the person** acquired the stolen property for a consideration which [he] **the**  
11 **person** knew was far below its reasonable value.

12          3. Receiving stolen property is a class A misdemeanor unless the property involved has  
13 a value of **at least** one hundred fifty dollars **but less than four hundred twenty-five dollars,**  
14 **in which case receiving stolen property is a class D felony. If the property involved has a**  
15 **value of four hundred twenty-five dollars** or more, or the person receiving the property is a  
16 dealer in goods of the type in question, in which cases receiving stolen property is a class C  
17 felony.

          570.090. 1. A person commits the crime of forgery if, with the purpose to defraud, [he]  
2 **the person:**

3           (1) Makes, completes, alters or authenticates any writing so that it purports to have been  
4 made by another or at another time or place or in a numbered sequence other than was in fact the  
5 case or with different terms or by authority of one who did not give such authority; or

6           (2) Erases, obliterates or destroys any writing; or

7           (3) Makes or alters anything other than a writing, **including receipts and universal**  
8 **product codes**, so that it purports to have a genuineness, antiquity, rarity, ownership or  
9 authorship which it does not possess; or

10          (4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with

11 the knowledge or belief that it will be used as genuine, any writing or other thing **including**  
12 **receipts and universal product codes**, which the actor knows has been made or altered in the  
13 manner described in this section.

14 2. Forgery is a class C felony.

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check or other similar  
3 sight order for the payment of money, knowing that it will not be paid by the drawee, or that  
4 there is no such drawee; or

5 (2) The person makes, issues, or passes a check or other similar sight order for the  
6 payment of money, knowing that there are insufficient funds in [that] **the person's** account or  
7 that there is no such account or no drawee and fails to pay the check or sight order within ten  
8 days after receiving actual notice in writing that it has not been paid because of insufficient funds  
9 or credit with the drawee or because there is no such drawee.

10 2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing"  
11 means notice of the nonpayment which is actually received by the defendant. Such notice may  
12 include the service of summons or warrant upon the defendant for the initiation of the  
13 prosecution of the check or checks which are the subject matter of the prosecution if the  
14 summons or warrant contains information of the ten-day period during which the instrument may  
15 be paid and that payment of the instrument within such ten-day period will result in dismissal  
16 of the charges. The requirement of notice shall also be satisfied for written communications  
17 which are tendered to the defendant and which the defendant refuses to accept.

18 3. The face amounts of any bad checks passed pursuant to one course of conduct within  
19 any ten-day period may be aggregated in determining the grade of the offense.

20 4. Passing bad checks is a class A misdemeanor, unless:

21 (1) The face amount of the check or sight order or the aggregated amounts is one  
22 hundred fifty dollars or more; or

23 (2) The issuer had no account with the drawee or if there was no such drawee at the time  
24 the check or order was issued, in which cases passing bad checks is a class D felony.

25 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney  
26 or circuit attorney who takes any action pursuant to the provisions of this section shall collect  
27 from the issuer in such action an administrative handling cost. The cost shall be five dollars for  
28 checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred  
29 dollars, and twenty-five dollars for checks of one hundred dollars or more. For checks of one  
30 hundred dollars or more an additional fee of ten percent of the face amount shall be assessed,  
31 with a maximum fee for administrative handling costs not to exceed fifty dollars total.  
32 Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in

33 this subsection shall be deposited by the county treasurer into a separate interest-bearing fund  
34 to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended,  
35 upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to  
36 issue checks thereon, only for purposes related to that previously authorized in this section. Any  
37 revenues that are not required for the purposes of this section may be placed in the general  
38 revenue fund of the county or city not within a county.

39 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney  
40 for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial  
41 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney  
42 and employees' salaries.

43 (3) This fund may be audited by the state auditor's office or the appropriate auditing  
44 agency.

45 (4) If the moneys collected and deposited into this fund are not totally expended  
46 annually, then the unexpended balance shall remain in said fund and the balance shall be kept  
47 in said fund to accumulate from year to year.

48 6. [Notwithstanding any other provisions of law to the contrary, in addition to the  
49 administrative handling costs provided for in subsection 5 of this section, the prosecuting  
50 attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face  
51 amount of the check, a reasonable service charge, which along with the face amount of the check  
52 shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney  
53 or circuit attorney does not collect the service charge and the face amount of the check, the party  
54 to whom the check was issued may collect from the issuer a reasonable service charge along with  
55 the face amount of the check] **Notwithstanding any other provision of law to the contrary:**

56 (1) **In addition to the administrative handling costs provided for in subsection 5 of**  
57 **this section, the prosecuting attorney or circuit attorney shall collect from the issuer, in**  
58 **addition to the face amount of the check, a reasonable service charge, which along with the**  
59 **face amount of the check, shall be turned over to the party to whom the bad check was**  
60 **issued;**

61 (2) **If a check that is dishonored or returned unpaid by a financial institution is not**  
62 **referred to the prosecuting attorney or circuit attorney for any action pursuant to the**  
63 **provisions of this section, the party to whom the check was issued, or his or her agent or**  
64 **assignee, or a holder, may collect from the issuer, in addition to the face amount of the**  
65 **check, a reasonable service charge, not to exceed thirty dollars, plus an amount equal to**  
66 **the actual charge by the depository institution for the return of each unpaid or dishonored**  
67 **instrument.**

68 7. In all cases where a prosecutor receives notice from the original holder that a person

69 has violated this section with respect to a payroll check or order, the prosecutor, if he determines  
70 there is a violation of this section, shall file an information or seek an indictment within sixty  
71 days of such notice and may file an information or seek an indictment thereafter if the prosecutor  
72 has failed through neglect or mistake to do so within sixty days of such notice and if he  
73 determines there is sufficient evidence shall further prosecute such cases.

74 8. When any financial institution returns a dishonored check to the person who deposited  
75 such check, it shall be in substantially the same physical condition as when deposited, or in such  
76 condition as to provide the person who deposited the check the information required to identify  
77 the person who wrote the check.

570.123. In addition to all other penalties provided by law, any person who makes,  
2 utters, draws, or delivers any check, draft, or order for the payment of money upon any bank,  
3 savings and loan association, credit union, or other depository, financial institution, person, firm,  
4 or corporation which is not honored because of lack of funds or credit to pay or because of not  
5 having an account with the drawee and who fails to pay the amount for which such check, draft,  
6 or order was made in cash to the holder within thirty days after notice and a written demand for  
7 payment, deposited as certified or registered mail in the United States mail, **or by regular mail,**  
8 **supported by an affidavit of service by mailing, notice deemed conclusive three days**  
9 **following the date the affidavit is executed,** and addressed to the maker and to the endorser,  
10 if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or  
11 order or to the last known address, shall, in addition to the face amount owing upon such check,  
12 draft, or order, be liable to the holder for three times the face amount owed or one hundred  
13 dollars, whichever is greater, plus attorney fees incurred in bringing an action pursuant to this  
14 section. Only the original holder, whether the holder is a person, bank, savings and loan  
15 association, credit union, or other depository, financial institution, firm or corporation, may bring  
16 an action under this section. No original holder shall bring an action pursuant to this section if  
17 the original holder has been paid the face amount of the check and costs recovered by the  
18 prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer  
19 of the check has paid the face amount of the check and costs pursuant to subsection 6 of section  
20 570.120, such payment shall be an affirmative defense to any action brought pursuant to this  
21 section. The original holder shall elect to bring an action under this section or section 570.120,  
22 but may not bring an action under both sections. In no event shall the damages allowed under  
23 this section exceed five hundred dollars, exclusive of attorney fees. In situations involving  
24 payroll checks, the damages allowed under this section shall only be assessed against the  
25 employer who issued the payroll check and not against the employee to whom the payroll check  
26 was issued. The provisions of sections 408.140 and 408.233, RSMo, to the contrary  
27 notwithstanding, a lender may bring an action pursuant to this section. The provisions of this



28 section will not apply in cases where there exists a bona fide dispute over the quality of goods  
29 sold or services rendered.